



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

MOON MOEHRING
113 CARSON RD
MABANK TX 75156-6602

Respondent Name

DALLAS AREA RAPID TRANSIT

Carrier's Austin Representative Box

Box Number 15

MFDR Tracking Number

M4-12-0668-01

MFDR Date Received

October 31, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "[The injured worker's] case manager, Carol A. Gallimore, and I talked on the phone on March 21, 2010. She hired me to become his home health care giver. . . . I have submitted my hours to Carol for payment. Unfortunately, I have not been paid at all. I have been working for [the injured worker] since March 9, 2010. My request for payment has been denied on more than one occasion. . . . At this point, Carol denies ever hiring me – even though two other people also heard the employment offer. I just want the pay that I feel I deserve. I have done the job I was hired to do very well. . . . I have based my billing amounts on minimum wage plus overtime. I am including my worksheets as backup to explain the amounts I have billed. . . . It is my desire to provide [the injured worker] with the care that he needs, while receiving the compensation that I deserve."

Amount in Dispute: \$60,570.18

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Ms. Moehring is not entitled to seek medical dispute resolution because the Division lacks jurisdiction to hear her dispute. Ms. Moehring is seeking reimbursement for services that have already been reimbursed. Additionally, DART is not liable for reimbursement because pre-authorization was not obtained for these services. Ms. Moehring did not timely submit many of the charges for reimbursement. Finally, Ms. Moehring is not entitled to reimbursement because she is not a licensed healthcare provider is not acting under the direction and supervision of a healthcare provider."

Response Submitted by: Burns Anderson Jury & Brenner, LLP, 7804 Bell Mountain Dr., Suite 100, Austin Texas 78730

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 9, 2010 to April 30, 2011	Home Health Services	\$60,570.18	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.305 sets forth general provisions for dispute of medical bills.
3. 28 Texas Administrative Code §102.3 sets forth general provisions related to computation of time.
4. 28 Texas Administrative Code §133.10 describes the required medical billing forms and formats.
5. 28 Texas Administrative Code §133.20 sets out procedures for medical bill submission by a health care provider.
6. 28 Texas Administrative Code §133.200 sets forth general provisions related to insurance carrier receipt of medical bills from health care providers.
7. 28 Texas Administrative Code §133.250 sets out the procedures for reconsideration of medical bills.
8. Texas Labor Code §408.027 sets forth general provisions related to payment of health care providers.
9. Texas Labor Code §408.0272 establishes certain exceptions for untimely submission of a claim for payment.
10. Neither party submitted copies of explanations of benefits for the services in dispute.

Issues

1. Did the requestor timely file the request for medical fee dispute resolution?
2. Did the requestor submit a complete request for medical fee dispute resolution including documentation of medical bills as required in 28 Texas Administrative Code §133.307(c)(2)(A)?
3. Did the requestor submit a complete request for medical fee dispute resolution including documentation of explanations of benefits (EOBs) as required in 28 Texas Administrative Code §133.307(c)(2)(B)?
4. Did the requestor timely submit the medical bills for payment to the insurance carrier?
5. Did the requestor submit a bill to the insurance carrier on the required billing form in the required format?
6. Did the requestor include correct billing codes from the applicable Division fee guidelines in effect on the date(s) of service when submitting medical bills?
7. Were medical bills for the disputed services submitted in the name of a licensed health care provider or a licensed supervising health care provider on behalf of the requestor?
8. Did the requestor submit a request for reconsideration for payment of the medical bills in accordance with the requirements of §133.250?
9. Does the dispute meet the requirements for medical fee dispute resolution?

Findings

1. 28 Texas Administrative Code §133.307(c)(1) states that "A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." Per 28 Texas Administrative Code §102.3(a)(3), "unless otherwise specified, if the last day of any period is not a working day, the period is extended to include the next day that is a working day." This dispute involves services rendered from March 9, 2010 through April 30, 2011. The request for dispute resolution of services rendered on dates of service March 9, 2010 through October 30, 2010 was received by the Division on October 31, 2010. This date is later than one year after the above dates of service in dispute. However, the Division notes that October 29 and October 30, 2010 fell on a Saturday and Sunday, respectively, and were not working days per §102.3(a)(3). The next working day was Monday, October 31, 2010. The Division therefore concludes that the request for dispute resolution was submitted in accordance with the timely filing requirements of §133.307(c)(1) with respect to dates of service October 29, 2011 through April 30, 2011, and these dates will be considered in this review. However, with respect to dates of service March 9, 2010 through October 28, 2010 the request was not submitted timely. The Division finds that the request does not involve issues identified in §133.307(c)(1)(B). The Division therefore concludes that, for dates of service March 9, 2010 through October 28, 2010, the requestor has failed to meet the requirements of §133.307(c)(1) and has waived the right to MDR.
2. 28 Texas Administrative Code §133.307(c)(2)(A) requires that the request shall include "a copy of all medical bill(s), in a paper billing format using an appropriate DWC approved paper billing format, as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration in accordance with §133.250 of this chapter (relating to Reconsideration for Payment of Medical Bills)." Review of the documentation submitted by the requestor finds that the requestor has not provided a copy of any medical bills using an appropriate DWC approved paper billing format either as originally submitted to the carrier or as submitted to the carrier for reconsideration. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(A).

3. 28 Texas Administrative Code §133.307(c)(2)(B) requires that the request shall include “a copy of each explanation of benefits (EOB), in a paper explanation of benefits format, relevant to the fee dispute or, if no EOB was received, convincing documentation providing evidence of carrier receipt of the request for an EOB.” Review of the submitted documentation finds that the request does not include copies of any EOBs for the disputed services. Nor has the requestor provided evidence of carrier receipt of the request for an EOB. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(B).
4. Per 28 Texas Administrative Code §133.20(b), except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. No documentation was found to support that the provider submitted timely medical bills for the disputed services to the insurance carrier. No documentation was found to support that the services were subject to any of the exceptions for untimely submission of a claim found in Labor Code §408.0272. Per Labor Code §408.027, failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment. The Division therefore concludes that the provider has forfeited the right to reimbursement for the services in dispute.
5. Per 28 Texas Administrative Code §133.10(b), health care providers, shall submit paper medical bills for payment on the 1500 Health Insurance Claim Form Version 08/05 (CMS-1500) or the Uniform Bill 04 (UB-04). In addition, a complete professional or noninstitutional medical bill related to Texas workers' compensation health care must contain the required data content or data elements as enumerated in §133.10(f)(1). The respondent submitted a copy of a letter from the insurance carrier to the provider dated September 16, 2010 that states “I am unable to process your request for reimbursement as it is not on the proper forms and does not have the proper coding. Please resubmit the billing on the correct [sic] with correct billing codes per Texas Workers' Compensation Statute.” Per §133.200(c) the proper return of an incomplete medical bill in accordance with §133.200 fulfills the insurance carrier's obligations with regard to the incomplete bill. The Division finds that the insurance carrier met its obligations with regard to the incomplete bill. No documentation was found to support that the requestor ever submitted a complete medical bill to the insurance carrier for payment. The Division concludes that the requestor has not met the requirements of §133.10(b).
6. Per 28 Texas Administrative Code §133.20 (c), a health care provider shall include correct billing codes from the applicable Division fee guidelines in effect on the date(s) of service when submitting medical bills. Review of the submitted information finds no documentation of any billing codes from any Division fee guidelines for the services in dispute. The Division concludes that the requestor has not met the requirements of §133.20(c).
7. 28 Texas Administrative Code §133.20(d)(2), requires that the health care provider shall submit its own bill, unless the health care was provided by an unlicensed individual under the direct supervision of a licensed health care provider, in which case the supervising health care provider shall submit the bill. No documentation was found to support that the requestor is a licensed health care provider. No documentation was found to support that the requestor was supervised by a licensed supervisor. No documentation was found to support that a supervising health care provider submitted the medical bill on behalf of the requestor. The Division concludes that the requestor has not met the requirements of §133.20(d)(2).
8. 28 Texas Administrative Code §133.250 provides that if the health care provider is dissatisfied with the insurance carrier's final action on a medical bill, the health care provider may request that the insurance carrier reconsider its action. The request for reconsideration shall: “(1) reference the original bill and include the same billing codes, date(s) of service, and dollar amounts as the original bill; (2) include a copy of the original explanation of benefits, if received, or documentation that a request for an explanation of benefits was submitted to the insurance carrier; (3) include any necessary and related documentation not submitted with the original medical bill to support the health care provider's position; and (4) include a bill-specific, substantive explanation in accordance with §133.3 of this chapter (relating to Communication Between Health Care Providers and Insurance Carriers) that provides a rational basis to modify the previous denial or payment. ” No documentation was found to support that the requestor submitted a request for reconsideration for payment of the medical bills in accordance with the requirements of §133.250.
9. The respondent contends that the Division lacks jurisdiction to adjudicate the requestor's claim because “her claim is not ripe as she failed to satisfy the regulatory prerequisites for a medical fee dispute. . . .” The respondent cites 28 Texas Administrative Code §133.305(a)(4) which states, in pertinent part, that “The following types of disputes can be a medical fee dispute: (A) a health care provider (provider) . . . dispute of an insurance carrier (carrier) reduction or denial of a medical bill.” Per 28 Texas Administrative Code §133.250(h), “If the health care provider is dissatisfied with the insurance carrier's final action on a medical bill after reconsideration, the health care provider may request medical dispute resolution in accordance with §133.305.” No documentation was found to support that the insurance carrier reduced or denied payment of the requestor's medical bill. No documentation was found to support that the insurance carrier took final action on requestor's medical bill after reconsideration. Therefore, the Division concludes that the requestor has not established that the dispute meets the requirements for medical fee dispute resolution as defined in §133.305(a)(4)(A).

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____ Signature	<u>Grayson Richardson</u> Medical Fee Dispute Resolution Officer	<u>October 1, 2012</u> Date
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_____ Signature	_____ Medical Fee Dispute Resolution Manager	_____ Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.